

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**TREASURER OF THE STATE OF
MISSOURI, CUSTODIAN OF THE
SECOND INJURY FUND**

**v.
CARL HORTON**

APPELLANT,

RESPONDENT.

DOCKET NUMBER WD79261

DATE: June 7, 2016

Appeal From:

Labor and Industrial Relations Commission

Appellate Judges:

Division Three: Gary D. Witt, Presiding Judge, James E. Welsh, Judge and Anthony Rex Gabbert, Judge

Attorneys:

Maggie M. Ahrens, Jefferson City, MO, for appellant.

Christine M. Kiefer, Jefferson City, MO, for respondent.

MISSOURI APPELLATE COURT OPINION SUMMARY

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SECOND INJURY FUND,**

APPELLANT,

**v.
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RESPONDENT.

No. WD79261

Labor and Industrial Relations Commission

Before Division Three: Gary D. Witt, Presiding Judge, James E. Welsh, Judge and Anthony Rex Gabbert, Judge

The Missouri State Treasurer, as Custodian of the Second Injury Fund (the "Fund"), appeals the final award of the Labor and Industrial Relations Commission ("Commission"), which found that Respondent Carl Horton ("Horton") qualified for fund benefits. In its sole point on appeal, the Fund argues that Horton is not entitled to fund benefits because his preexisting disability, bilateral hearing loss, cannot meet the statutory threshold to receive those benefits because hearing loss is not a disability to a major extremity or the body as a whole.

WE AFFIRM

Division Three holds:

The Commission did not err in finding that hearing loss constitutes an injury to the "body as a whole" such that fund liability is triggered.

Opinion by Gary D. Witt, Judge

June 7, 2016

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